

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAARILLE LINZY,

Plaintiff,

– *against* –

UBER TECHNOLOGIES, INC.,

Defendant.

OPINION AND ORDER

21 Civ. 5097 (ER) (SDA)

Ramos, D.J.:

Shaarille Linzy brings this action regarding injuries suffered when she was struck by a car being driven for Uber. Doc. 2-1. Pending before the Court is Linzy’s motion to join Jose A. Alemar, American United Transportation, Inc., American United Transportation II, Inc., Erez Dassa, and Ethan B. Gerber as mandatory parties to the action. Doc. 21. The Honorable Stewart D. Aaron, United States Magistrate Judge, issued a Report and Recommendation (“Report” or “R&R”) on April 14, 2022. Doc. 29. For the reasons stated herein, the Court adopts Judge Aaron’s recommendation to deny Linzy’s motion for joinder.

I. BACKGROUND

On December 5, 2019, Linzy was crossing the street at the intersection of Westchester Avenue and Bruckner Boulevard in the Bronx, New York when she was struck by a car driven by Jose Alemar, a driver for Uber. Doc. 2-1 ¶¶ 14–17. Linzy commenced an action in the Supreme Court of the State of New York, Bronx County (*Linzy I*) on March 9, 2020 against Alemar as well as American United Transportation, Inc. and American United Transportation II, Inc., the owners of the vehicle Alemar was driving. Doc. 21-2. After learning that Alemar was working for Uber at the time of the accident, Linzy commenced a second action solely against Uber in the Supreme Court of the State of New York, Bronx County (*Linzy II*) on February 8, 2021. Doc. 21-5. Uber removed the case to this Court on June 9, 2021. Doc. 2.

Linzy filed a motion to remand this case to facilitate consolidation with *Linzy I* on June 30, 2021. Doc. 5. The motion was denied on February 8, 2022. Doc. 16. Linzy then filed the instant motion for joinder, seeking to join Alemar as well as American United Transportation, Inc., American United Transportation II, Inc., Erez Dassa, and Ethan B. Gerber as owners of the vehicle. Doc. 21. The motion was referred to Judge Aaron. Doc. 22.

On April 14, 2022, Judge Aaron issued the Report, recommending that the motion for joinder be denied because the proposed defendants are not necessary parties and joinder would not comport with fundamental fairness. Doc. 29. The Report included notice to the parties that any objections must be filed within fourteen days. *Id.* at 11. As of the date of this order, no objections have been filed.

II. LEGAL STANDARD

A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Parties may raise "specific," "written" objections to the report and recommendation "[w]ithin fourteen days after being served with a copy." *Id.*; Fed. R. Civ. P. 72(b)(2). A district court reviews *de novo* those portions of the report and recommendation to which timely and specific objections are made. 28 U.S.C. § 636(b)(1)(C); *see also United States v. Male Juvenile (95 Cr 1074)*, 121 F.3d 34, 38 (2d Cir. 1997). The district court may adopt those parts of the report and recommendation to which no party has timely objected, provided no clear error is apparent from the face of the record. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

III. DISCUSSION

No party has objected to the R&R. The Court has reviewed Judge Aaron's thorough and well-reasoned Report and finds no error, clear or otherwise.

IV. CONCLUSION

The Court therefore adopts Judge Aaron's Report in full, for the reasons stated in the Report. Accordingly, Linzy's motion for joinder is DENIED. In addition, the parties' failure to

file written objections precludes appellate review of this decision. *PSG Poker, LLC v. DeRosa-Grund*, No. 06 Civ. 1104 (DLC), 2008 WL 3852051, at *3 (S.D.N.Y. Aug. 15, 2008) (citing *Male Juvenile*, 121 F.3d at 38).

The parties are directed to contact Magistrate Judge Aaron's chambers to schedule a status conference.

It is SO ORDERED.

Dated: May 17, 2022
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS, U.S.D.J.